

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No.3849/07

Smt. Pushpa Jain & Anr.

Vs.

Addl. District & Sessions Judge No.8,
Jaipur City, Jaipur & Anr.

24.5.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri Pankaj Gupta for petitioner.

Heard learned counsel for the
petitioner.

The petitioner has challenged the
order dated 8.5.07 whereby his
application for transfer of the
suit/appeal pending in the Court of
Additional District Judge, Jaipur to some
other Court has been declined by the
learned District Judge, Jaipur.

On perusal of the application

seeking transfer it appears that the ground on which transfer was prayed was that when the matter was listed before the Court on 14.3.2007 and the request for adjournment was made, the learned Presiding Officer observed that the appellants were unnecessary seeking adjournment and that he was not likely to allow the appeal. The matter was ultimately adjourned to 22.3.2007 for final arguments. On that basis it was concluded by the petitioners that the Presiding Officer was biased against them and hence they moved the application for transfer.

Learned counsel for the petitioner has relied on the judgment of this Court in Prem Prakash Vs. J.P. Bansal & Ors., RLR 1988(2) page 831

especially on that part of the judgment where it was observed by the Court that "it is not necessary for the petitioner in such cases to prove any definite bias against the Presiding Judge but it is enough if the petitioner can show that he has genuine apprehension that he would not get justice from the Court in which his case is pending."

In the facts of the case, I do not find that those observations can be applied in this case because there is absolutely no basis for transfer merely on the tentative view expressed by the Judge on a particular date of hearing and that too when he ultimately accepted the prayer of the petitioner for adjournment and adjourned the matter and the District Judge has considered the matter and on

obtaining comments from the Presiding Officer rejected the application.

In my considered opinion now the transfer of the matter pending before the Court cannot be made just at the instance of the parties and mere apprehension of any party would not have foundation of biasness.

The writ petition having no substances is therefore dismissed.

(Mohammad Rafiq), J.

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